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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XC266

Atlantic Highly Migratory Species; Exempted Fishing, Scientific Research, Display, and Chartering Permits; Letters of Acknowledgment

AGENCY: National Marine Fisheries Service (NMFS or we), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; Summary of Comments Received.

SUMMARY: We announce the availability of public comments received regarding our intent to issue Exempted Fishing Permits (EFPs), Scientific Research Permits (SRPs), Display Permits, Letters of Acknowledgment (LOAs), and Chartering Permits for the collection of Atlantic highly migratory species (HMS) in 2013. On November 20, 2012, we published a Notice of Intent (NOI) announcing our intent to issue these permits in 2013. In general, EFPs and related permits would authorize collection of a limited number of tunas, swordfish, billfishes, and sharks from Federal waters in the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico for the purposes of scientific data collection and public display. Comments were accepted on the NOI until December 20, 2012.

ADDRESSES: The 2012 NOI comments received and additional information concerning the Atlantic HMS Exempted Fishing Permit program are available from Craig Cockrell or Michael Clark, Highly Migratory Species Management Division, Office of Sustainable Fisheries, NMFS, 1315 East West Highway, Silver Spring, MD 20910. Comments received on the NOI are posted on the Atlantic Highly Migratory Species Management

Division's website: <http://www.nmfs.noaa.gov/sfa/hms/>.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell or Michael Clark, phone: (301) 427-8503, fax: (301) 713-1917.

SUPPLEMENTARY INFORMATION:

On November 20, 2012, we published a Notice of Intent (NOI) announcing our intent to issue EFPs, SRPs, Display Permits, LOAs, and Chartering permits for the collection of HMS in 2013. In general, EFPs and related permits would authorize the collection and tagging of a limited number of tunas, swordfish, billfishes, and sharks from Federal waters in the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico for the purposes of scientific data collection and public display. Comments were accepted on the NOI until December 20, 2012.

In general, the goal of the annual NOI to issue EFPs, SRPs, Display Permits, and Chartering Permits is to inform the public that the Agency may receive applications for research and other purposes in 2013. Regulations specific to the Atlantic HMS EFP program at 50 CFR 635.32 (a)(1) indicate that “consistent with the provisions of § 600.745 of this chapter, except as indicated in this section, we may authorize activities otherwise prohibited by the regulations contained in this part for the conduct of scientific research, the acquisition of information and data, the enhancement of safety at sea, the purpose of collecting animals for public education or display, the investigation of bycatch, economic discard and regulatory discard, or for chartering arrangements.” Further, 50 CFR 635.32 (g) indicates “we may consolidate requests for the purpose of obtaining public comment for Atlantic HMS EFPs. In such cases, we may file with the Office of the Federal Register, on an annual or more frequent basis as necessary, a

notification of previously authorized activities and information concerning applications that we may receive in the forthcoming year.” The annual NOI meets the requirements of both 50 CFR 635.32 (a)(1) and 50 CFR 600.745 in most cases and, in cases where the requested activity is outside the scope of general scientific sampling and tagging, a separate notice is provided. Other relevant information related to the statutory authority for issuance of EFPs and related permits is described in the NOI published on November 20, 2012, and is not repeated here.

The majority of EFPs and related permits described within the annual NOI relate to scientific sampling and tagging of Atlantic HMS. The majority of these types of permits and the impacts of the activities conducted under these permits have been previously analyzed in various environmental assessments and environmental impact statements for Atlantic HMS. As such, generally, we do not receive significant comments from the public. Because our intent to issue such permits has not changed, we will issue these types of permits without public comment beyond the opportunity provided in the annual NOI. However, occasionally we do receive applications for permits that were not anticipated or where the research being conducted is outside the scope of general scientific sampling and tagging of Atlantic HMS. When we receive such applications, we will provide the public additional opportunity to comment, consistent with regulations in 50 CFR 600.745.

On the November 2012 NOI, we received numerous public comments, the majority of which expressed concern regarding EFP applications that may request access to the Florida East Coast or Charleston Bump time/area closures using pelagic longline vessels to conduct research. Commenters on this subject did not support this type of

research. At this time, we have not received any applications requesting access to these, or other closed areas, using pelagic longline vessels. Rather, similar to NOIs published in the past for the Atlantic HMS EFP program, the goal of this past NOI was to inform the public that the Agency may be receiving applications for this type of research in 2013. As is true for any application, if applications are received in 2013 that are beyond the scope of the NOI, we would complete additional analyses evaluating the impacts on the human environment of this type of research and, if warranted, allow additional opportunity for the public to comment on the proposed activities before issuing any formal authorization or EFP. Specifically on closed area research, compensation fishing, and aquaculture requests that require exemption from regulation, we will provide additional opportunities for public comment when complete applications are received and necessary analyses have been conducted.

We also received comments in opposition to the issuance of EFPs for the culture of bluefin tuna without additional opportunity for public comment. This comment stemmed from the issuance of an EFP in 2012 to scientists interested in conducting experiments to culture yellowfin and bluefin tuna in land-based recirculating tanks. The 2012 EFP authorized the collection of up to six yellowfin and bluefin tuna using rod and reel. The 2012 permit was issued without the Agency seeking additional public comment on the activity because of the limited scope of the activity and the fact that no tuna captured under the authority of the permit would be sold or released back into the ocean. The applicants did not catch any bluefin tuna that were under the recreational size limit in 2012. As stated above, due in part to the comment received on the NOI, we will provide additional opportunities for public comment when complete applications on aquaculture,

closed area research, or compensation fishing are received and necessary analyses have been conducted.

A comment was received citing a requirement at 50 CFR 600.745 (b)(3)(i) that we seek public comment for 15-45 days on every application, prior to issuing a permit. As described above, we believe the annual NOI provides the opportunity for public comment in most cases. However, we will provide additional opportunity for the public to comment in 2013 if applications are beyond the scope of general scientific sampling and tagging of HMS, and specifically for any applications received that involve aquaculture, closed area research, or compensation fishing.

We also received several comments in support of issuance of Display Permits for collection of Atlantic HMS for public display and education.

Final decisions on the issuance of any EFPs, SRPs, Display Permits, and Chartering Permits will depend on the submission of all required information about the proposed activities; public comments received on the November 20, 2012, NOI; an applicant's reporting history on past permits issued, any prior violations of marine resource laws administered by NOAA; consistency with relevant NEPA documents; and any consultations with appropriate Regional Fishery Management Councils, states, or Federal agencies. We do not anticipate any significant environmental impacts from the

issuance of EFPs and related permits as assessed in the 1999 Fishery Management Plan, Amendment 2 to the 2006 Consolidated HMS FMP, 2011 Bluefin Tuna Specifications, and 2012 Swordfish Specifications.

Authority: 16 U.S.C. § 971 et seq. and 16 U.S.C. § 1801 et seq.

Dated: February 26, 2013

Kara Meckley,
Acting Deputy Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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